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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

JANUARY 10, 2012

PRESENT: Benich, Dommer, Moniz, Mueller, Tanda, Koepp-Baker, McKay

ABSENT: None

LATE: None

STAFF: Interim Community & Economic Development Administrator (ICEDA)
Rowe

Chair Benich called the meeting to order at 7:00 p.m., inviting all present to join in reciting the pledge of allegiance to the U.S. flag.

DECLARATION OF POSTING OF AGENDA

Interim Community & Economic Development Administrator Rowe certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Benich opened, and then closed, the floor to public comment for matters not appearing on the agenda as none were in attendance indicating a wish to address such matters.

ORDERS OF THE DAY

No changes.

CONTINUED PUBLIC HEARING:

1) DEVELOPMENT AGREEMENT AMENDMENT, DAA-09-02: CLAYTON-O'BRIEN:

A request for a development agreement amendment to extend the commencement of construction deadlines for one year. The project consists of 7 units on an approximately 3.6 acre parcel on Clayton Ave, north of Peebles Ave (APN 726-48-012).

Jim Rowe presented his staff report and stated that staff does not recommend an extension.

Benich opened the floor to public comment.

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David Baker of the O'Brien Foundation appeared. We are very close to finishing steps five and six and are close to having a signed agreement with Signature Homes.

John Bayless of Signature Homes appeared: We have KTGy working on construction drawings right now. We should be able to start pulling permits within six months.

Mueller: What can you commit to getting done quickly?

Bayless: We are close to getting a signed agreement. I think we could be ready to submit construction drawings within about three months.

Mueller: Signature Homes is doing another project in Morgan Hill. What is their track record on that one?

Rowe: They have been fairly timely. We hadn't had any prior experience until this other project. They are in the middle of environmental clearance and that is progressing well. They have responded to making clarifications and corrections to the Site Review requests.

McKay: How long would you anticipate the plan check to take?

Rowe: The initial plan check is 28 days.

McKay: Is it possible to give them an extension of less than one year?

Rowe: Yes, you can grant an extension for less than 12 months.

Mueller: In terms of the next competition, if you give any extension, the allocations are not going to be available.

Rowe: It would just make it so those units wouldn't be added to the population cap.

Dommer: Are you considering an extension?

Mueller: I'm only considering it because Mr. Bayless says he thinks they can do a deal, and they are performing on a much larger project right now. I'm ready to give Signature the benefit of the doubt. I'd rather see it get built than delayed. I was thinking we could make a modification saying that the recommendation for the extension is based on a near sale and the developer has a good track record on another project. Then we should ask for construction drawings in 90 days and two permits to be pulled in 180 days and state that the Planning Commission would not look favorably on any further extensions.

Benich: We actually have a staff report recommending denial based on the eight developer action steps. They have only completed four. So if someone wants to make a motion for approval, we're going to have to give reasons why.

COMMISSIONERS MUELLER AND MONIZ MOTIONED TO APPROVE

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**THE EXTENSION WITH A REQUIREMENT TO SUBMIT
CONSTRUCTION DRAWING IN 90 DAYS AND OBTAIN TWO BUILDING
PERMITS IN 180 DAYS**

Moniz: Why do we need to complicate it with 90 day and 180 day interim deadlines? Why can't we just give them a 6-month or 12-month extension?

Mueller: We need to impose to deadlines to act since we're basically going against City Council policy.

Tanda: The Council policy is more general than that. I would agree with John and also state that this project has special circumstances in that it already has street improvements and pads. That is certainly different than most applications.

Tanda: Does the motion include the dates?

Benich: Yes, it does now.

Moniz: The bigger picture is that the extension is granted.

Benich: I am going to vote against it because I think we need to send a message that they haven't complied with Council policy, and I also don't want this project coming back for another extension.

**THE MOTION PASSED (6-1-0-0) WITH THE FOLLOWING VOTE:
AYES: MONIZ; KOEPP-BAKER; MUELLER; TANDA; DOMMER;
MCKAY
NOES: BENICH
ABSTAIN: NONE;
ABSENT: NONE.**

**OTHER
BUSINESS:**

Moniz recused himself at 7:24 p.m.

**2)RESIDENTIAL
DEVELOPMENT
CONTROL
SYSTEM (RDCS)
FINAL
PROJECT
EVALUATIONS**

Rowe presented his staff report.

Mueller: I think that Condit-Milano, Diana-Sherimar, Hale-Signature, and Del Monte-Blackwell are returning projects that have already been scored. So whatever score they had is what they would get.

Rowe: Correct.

Benich: Under Part A, which is a maximum of 10 points, what is the minimum score?

Rowe: It is 7.5.

Benich: Then Tilton-UCP wouldn't qualify to compete, right?

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Rowe: That is correct. Tilton-UCP is not eligible because it didn't pass Part A. They would have to commit to grid the water system instead of just tying in to the existing mains. Also, Murphy-Chellino was withdrawn. Under Part B, a project needs to score a minimum of 160 points to be awarded allocations. Tonight we are not deciding who gets what building allocations. We are just determining what the final scores will be.

MC-11-03, Cochrane-Borello:

Benich: This project received 8 points under Part A and the Part B score was increased from 178 to 183 points.

Benich opened the floor to public comment.

Mike Fletcher appeared on behalf of Cochrane-Borello. Under item B1E it states that if a project is adjacent to a historical site and is maintained in as natural a state as possible it can be awarded up to two points. Our project is adjacent to the historic Rhodes Ranch and will be maintained in as natural a state as possible. We are eliminating a farm road that will cut down on traffic. We also submitted with our criteria a report showing that we will be mitigating other factors. We deserve the two points with the work and energy we have put into it. We also would appreciate your support for the two points for a superior project.

Tanda: Staff pointed out that the underground archaeological resources found onsite are artifacts that will not be preserved for the enjoyment of the public. Did I hear you say that you will be turning those over to the historical society?

Fletcher: Items of significance will definitely be categorized and turned over to the Morgan Hill historical group. We don't know how significant they are yet but we would at the very least be installing a plaque. So we have two issues: one on our site and one adjacent to it.

Benich closed the floor to public comment.

Benich: Commissioners, how do you feel about the open space point?

Koepp-Baker: This is adjacent to a 200-year old historical site.

Rowe: I might point out that at the 7:00 meeting the owner of the Rhodes Ranch appeared and stated that she had concerns that this project would have negative impacts.

Mueller: I'm supporting staff on this because I don't think it's clear that the project has interfaced with the historical site and done as much as they could. As to the onsite potential, anything that gets turned up will not have a huge benefit and I don't think it's enough to merit points.

Tanda: I agree with Commissioner Koepp-Baker. I believe what they have done would warrant at least one of the two points.

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Dommer: I would support it if they made the road they are eliminating into a landscaped buffer zone.

McKay: I guess the issue is adjacency. There is an interface road. We've heard that the Rhodes Ranch owners and the Borello project owners are going to talk but we don't have the results of that.

Benich reopened the floor to public comment.

Fletcher: We met with the owner of the Rhodes Ranch today. Their concern is that they want driveway access to the garages in the back. Right now there is a road on the Borello project that they use. When the community gets built, that road goes away. We met today to talk about how to put an additional roadway on their property. The good news for the historical site is that all of the farm traffic, debris, spraying, etc. go away and that is a positive impact. The issue is that they want to maintain the driveway to the back. We committed to come back with a cross section analysis to show how that driveway for the back yard would operate. Right now the driveway is on the Borello and that road goes away when development occurs. But we're committed to making sure that they're happy and we're good neighbors.

Benich closed the floor to public comment.

McKay: So basically they're going to put an access driveway on the property.

Mueller: That's new information that we can't consider because it's after the application filing date. There's nothing in the project narrative that says they're committing to resolving the access road.

Benich: I say no. A developer has to commit to doing a lot of things to get two points. Based on the criteria, I can't give anymore points.

Mueller: We have to remember that the historical Rhodes Ranch is going away. That ranch included all the farmland that is going to be developed as homes. So when you look at the historical context of what's around it, the external environment is going to be completely different. So it's the degree that we can help preserve the Rhodes Ranch as a home site with outbuildings. The original ranch was something like 300 acres.

Tanda: I heard Mr. Fletcher saying that they would be installing a plaque, so I was going to recommend one-half point for that.

McKay: So would returning any artifacts to the historical society be going beyond the one-half point for the plaque?

Rowe: Yes, that would be going beyond. It's really a question of whether what they're doing enhances the historical resources that are in proximity to it.

Benich: Did they actually commit to installing a plaque in their narrative? If they'll install a plaque I would be willing to give the half point.

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Tanda: I was thinking initially it would be one point due to the recovery and preservation of artifacts.

Benich: Anytime you find artifacts when you're building, you have to turn them in anyway. Jim, can you read from the narrative to see what they said they would do?

Rowe: Under their comments, applicant proposes to maintain the areas identified as historical in the report in "as natural a state as possible". They also say they will not be impacting the adjacent Rhodes Ranch historic site. They will also be maintaining a pumping facility.

Benich: So they did not commit to installing a plaque in their narrative?

Rowe: I would have to look in the report that the applicant has referenced.

Koepp-Baker: What does the open space attachment say?

Rowe: I'd have to look in the file, which we didn't bring this evening.

COMMISSIONER BENICH AND TANDA MOTIONED TO GRANT ONE-HALF POINT FOR SECTION 1E UNDER OPEN SPACE FOR PROJECT MC-11-03

THE MOTION PASSED (4-2-0-1) WITH THE FOLLOWING VOTE:

AYES: KOEPP-BAKER, BENICH, TANDA, DOMMER;

NOES: MUELLER; MCKAY

ABSTAIN: NONE;

ABSENT: MONIZ.

Livable Communities Vote:

In favor: McKay, Dommer, Tanda, Mueller, Koepp-Baker and Benich

Two points awarded.

Benich called for a break at 8:00 p.m. and reconvened at 8:11 p.m.

MC-11-06, Condit-Milano:

Benich: Based on the re-evaluation of the score, this project went from 177 to 181 points.

Benich opened the floor to public comment.

Talli Robinson of KB Home appeared on behalf of the project. Last time we were here we asked for reconsideration on several items and those were granted. There is one point that we would still like review on. That was for some landscape screening to the public parking. It is on the south side of the project and there is a view from Condit and Milano where we will be screening. It received the point in the last competition, so we're just asking that point to be given again since nothing has changed. As far as the extra points, we would ask that you find us to be a superior project. We just purchased the project in January. We already have five

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closings; we have two townhomes under construction; and we're down to only seven permits of the original 24. We don't have any allocations for 2012/13 so we're looking for any points we can get so that we can do some swapping and keep our business going. We have three product types. We have a very good working relationship with city staff and would appreciate the consideration.

Mueller: Do you know if in the previous competition you were awarded the Livable Community points or not?

Robinson: I'm sorry, I don't.

Benich closed the hearing to public comment.

Mueller: Was this brought up in the last meeting that the point was awarded in the previous competition?

Rowe: No, I don't recall that it was. But it might have been awarded last time. There is landscaping within 20 foot corridor areas that connects the meandering the pathway to the private drive in the back where the parking is. They're indicating that they received a point for that before. What I looked at when I scored is that parking is really screened from the public streets by the buildings more than by the landscaping.

Benich: But even if it's not visible to the public eye, wouldn't it be an amenity for the people that live there to have landscaping around the parking anyway?

Rowe: Yes, but this is a planting to achieve visual screening as viewed from the public street. The policy has been that if the project received these points in a prior year and nothing has changed, that they should be entitled to the same points again.

Mueller: So for this point, we need to check for consistency with previous scoring. And Livable Communities, item B1b, is the same because we've scored this project before. If the project and criterion haven't changed, we don't rescore it.

Rowe: If we were to give this project the one point on the basis that it was awarded last year, the maximum they can get is 10, so it would go from 9.5 to 10.

[All commissioners consented to giving the point if it was awarded in the previous competition.]

Bill McClintock asked for clarification regarding the point for a quality project under the Livable Communities category, stating that the last time the project competed it didn't qualify for the point because it was the first phase, but that it should qualify this time because the builder has established a track record.

Rowe: Based on the performance of the builder now, the Commission could award another point for that.

Tanda: I would agree that we should be consistent and give the point if it was awarded last year, but I also think we should look at Livable Communities and award another point for that if it is judged to be a Quality Project, especially

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because we have some new commissioners that weren't here last year to judge.

Rowe: I would concur.

Benich: On the other hand, those previous commissioners were entrusted to do a job and they did it. We should not go back on what they decided.

Tanda: Part of the point for a Quality Project depends on the track record of the developer. At the last competition, this developer didn't have a track record yet. Now, two years later, they may have an excellent track record, which would cause us to give them the point.

Mueller: But the track record of the builder is only one small component of being awarded the point. The history has been that we are consistent in our scoring from year to year and unless you change the project we're not going to revisit it. In this case, the only thing that has changed is the developer. Yes, they're doing a good job but that's not the significant portion of this category.

McKay: I think we shouldn't take points away, but if the applicant is due more points, then this is an opportunity to look at it again.

Dommer: That makes sense.

Mueller: The number of times we've awarded even one point in this category is less than 50 percent, right?

Rowe: That's correct. One position you could take is that we wouldn't take away any points, but you could add to it.

McClintock: Measure C is really a comparison process. You compare projects and scores. A lot of the determination can't be made until you're comparing it to the projects for that year, not previous years.

Mueller: I disagree. It was not meant to be a comparison with other projects. The point was set up for a project to be subjectively viewed on its own.

McClintock: But there are not a lot of defined criteria.

Livable Communities vote:

For: Benich.

Against: McKay, Tanda, Mueller, Dommer, Koepp-Baker.

No points awarded (unless they were awarded in the previous competition).

MC-11-07, Diana-Sherimar:

This project scored 8.5 points on Part A and there was no change from the last meeting on Part B, with the project scoring 176.5 points total.

Livable Communities Vote:

For: Dommer, Mueller.

Against: Tanda, Koepp-Baker, Benich, McKay.

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No points awarded (unless they were awarded in the previous competition).

MC-11-08, E. Dunne-UCP:

The project scored 8.5 points under Part A and received one additional point after the last meeting for a total of 174 points.

Benich opened the floor to public comment.

Scott Schilling appeared on behalf of the project: Staff's comment was that there was no past experience with the developer in completion of a project. I represent Benchmark Communities, which is the building division of UCP. We have projects around California. Personally, I have been involved in over 400 homes being built under Measure E, P, C, etc. We do have a lot of in-house experience. We have been working with the city for our W. Dunne project. The permit applications for that have been timely, including the exempt portion. We have done grading and installed underground improvements.

Benich closed the floor to public comment.

Livable Communities Vote:

For: Koepp-Baker, Tanda, Dommer, McKay

Against: Mueller, Benich

One point awarded.

MC-11-09, Hale-Signature:

The project scored 8.5 points under Part A and went from 182.5 points to a total of 186 points after the last meeting.

Benich opened the floor to public comment.

Joe Zawidsky appeared on behalf of the project and thanked staff for reconsidering and giving the additional points.

Livable Communities Vote:

For: McKay, Benich

Against: Mueller, Koepp-Baker, Tanda, Dommer.

No points awarded.

MC-11-10, Barrett-Khanna

The project scored 8.5 points under Part A and received an adjusted total of 159.5 for Part B.

Benich opened the floor to public comment.

Vince Burgos with Development Process Consultants appeared: In reviewing the staff comments they still did not address item 1E regarding surrounding uses. It does conform. It is consistent with what's developed in the area. It qualifies for that point. Staff's comment is not relevant to the criteria. Please grant the point to get a rental project in this city.

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Raj Khanna, owner of the property, appeared: We need the one-half point to do a project which is drastically needed by Morgan Hill. We have also upgraded the Morgan Glen shopping center. It no longer looks junky. We should be given the point for project excellence. It is in your hands.

Benich closed the floor to public comment and asked for clarification on staff's comments under Item 1E.

Rowe: In some experiences we've had dealing with who has been retained to put the project together or build it, our experiences have been varied. We've had some good experiences and some not so well. In this situation, we looked favorably on the design firm that was chosen. If it carries through on the construction portion of the project, then that could be a good experience throughout.

Mueller: That's under Livable Communities. But under Lot Layout, Item 1E, we're confused. The opening paragraph makes sense but the second paragraph doesn't.

Rowe: The second paragraph does not seem to be applicable to Item 1E.

Mueller: That comment could really be related more to Item 1D.

Rowe: I think what we're really saying is that the transition to surrounding residential neighborhoods is really not applicable. The Commission said it really should be considering not just R-3 residential neighborhoods, but all surrounding uses for compatibility and transitioning. You referred it to subcommittee because you wanted to make it clear that this becomes an opportunity point for projects like this that provide compatibility with surrounding projects, whether it's residential or not. So you can amend the criteria going forward. Staff's position is that it's really not applicable.

Benich: For me what it comes down to is there enough compatibility between existing and proposed neighborhoods? I think there is. I would be willing to give the point.

Tanda: I agree.

Dommer: I think the Commission needs to use its discretion to approve this.

COMMISSIONERS DOMMER AND TANDA MOTIONED TO GRANT ONE POINT FOR ITEM 1E UNDER LOT LAYOUT.

THE MOTION PASSED (5-1-0-1) WITH THE FOLLOWING VOTE:

AYES: KOEPP-BAKER; BENICH, TANDA; DOMMER; MCKAY

NOES: MUELLER

ABSTAIN: NONE;

ABSENT: MONIZ.

The score was then revised from 159.5 to 160.5.

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Livable Communities Vote: (project already received a maximum of 10 points.)

For: Dommer, Benich

Against: Mueller, Koepp-Baker, Tanda, Dommer, McKay

No points awarded.

MC-11-11, Diana-Bagoye

The project scored 9 points under Part A and remained at 170 on Part B.

Livable Communities Vote:

For: None.

Against: Benich, Mueller, Koepp-Baker, Tanda, Dommer, McKay

No points awarded.

MC-11-12, Del Monte-Blackwell

The project scored 8.5 points under Part A and received 185 points on Part B.

Benich opened and closed the floor to public comment.

Livable Communities Vote: (project already received a maximum of 10 points.)

For: Benich.

Against: Mueller, Koepp-Baker, Tanda, Dommer, McKay

No points awarded (unless points were previously awarded.)

MC-11-15, Tennant-Gera

The project scored 8 points under Part A and received 164.5 points on Part B.

Livable Communities Vote: (project already received a maximum of 10 points.)

For: Koepp-Baker, Tanda, McKay.

Against: Mueller, Dommer, Benich.

No points awarded.

MC-11-16, Main-Morgan Lane/Garcia

The project scored 8 points under Part A and a revised score of 171 points on Part B.

Benich opened the floor to public comment.

Rocke Garcia, owner of the project, appeared and asked for the award of points under Livable Communities.

Benich closed the floor to public comment.

Tanda: Is this being scored as a "Small Project?"

Rowe: That will be determined at your next meeting. You asked to see how it would compete as a small, stand-alone project versus a continuation of a larger project. That will be on February 14th.

Livable Communities Vote:

For: Koepp-Baker, Tanda, Dommer, McKay, Benich.

Against: Mueller.

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Two points were awarded.

Rowe: To summarize the scoring adjustments –

Cochrane-Borello:

½ point for Open Space, 2 points for Livable Communities. Total = 185.5

Condit-Milano: 1 point for Landscaping, 0 points for Livable Communities.
Total = 181.5

E. Dunne-UCP: 1 point for Livable Communities. Total = 175

Barrett-Khanna: 1 point for Lot Layout, 0 points Livable Communities.
Total = 160.5

Main-Morgan Lane/Garcia: 2 points Livable Communities. Total = 173

Staff will review any prior scoring so that if points were previously awarded under a category, they will remain the same. Now there is an appeal period, so this will come back before the Commission on February 14.

COMMISSIONERS MUELLER AND MCKAY MOTIONED TO APPROVE THE SCORE TOTALS AS AMENDED.

THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE:

AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: MONIZ.

Mueller: When will be meeting as a subcommittee?

Rowe: It usually goes to the subcommittee after the conclusion of the competition.

Mueller: We were very pressed last year. If it can go on the next agenda, that would be a good thing because there is a lot to talk about.

ANNOUNCEMENTS / COMMISSIONER IDENTIFIED ISSUES

Rowe: We have a new Community and Economic Development Director named Mitch Oshinsky. I have been serving in that position as an interim capacity since July 1, 2011. Additionally, a couple of commissioners have asked about the League of California Cities Planners Institute which will be held March 22, 2012 in San Jose. We have a limited amount of funds in the budget. We can pay registration for the conference for possibly two commissioners, or it could be divided up between morning and afternoon for more people.

Benich: Can you please pass on my high displeasure to the City Council. I am very upset with the fact that we put in so much time and yet the Council can't even send us to a local San Jose Conference. I know we're under budget constraints but we're not even talking about travel and living expenses. I am very displeased.

Rowe: Our budget is going in a positive direction. Last year we had \$0 in the training fund. This year we have \$2,500. This is the first time we've budgeted for this purpose since fiscal year 2007/08.

CITY COUNCIL REPORTS

None.

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ADJOURNMENT

Noting that there was no further business for the Planning Commission at this meeting, Chair Benich adjourned the meeting at 9:14 p.m.

MINUTES RECORDED AND TRANSCRIBED BY:

ELIZABETH BASSETT, Development Services Technician

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